

listed as Arapaho Tribe of the Wind River Reservation, Wyoming]”.

Bryan Newland,

Principal Deputy Assistant Secretary—Indian Affairs, Exercising the delegated authority of the Assistant Secretary—Indian Affairs.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[212A2100DD/AAKC001030/
A0A501010.999900]

HEARTH Act Approval of Grand Traverse Band of Ottawa and Chippewa Indians, Michigan Business Site Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) approved the Grand Traverse Band of Ottawa and Chippewa Indians, Michigan Business Site Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into business leases without further BIA approval.

DATES: BIA issued the approval on April 5, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, sharelene.roundface@bia.gov, (505) 563-3132.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into

leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Grand Traverse Band of Ottawa and Chippewa Indians, Michigan.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. See 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72,440, 72,447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation v. Thurston County*, 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973)). Similarly, section 5108 preempts State taxation of rent payments by a lessee for leased trust lands, because “tax on the payment of rent is indistinguishable from an impermissible tax on the land.” See *Seminole Tribe of Florida v. Stranburg*, 799 F.3d 1324, 1331, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of “traditional

notions of Indian self-government,” requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72,447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to “allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.” 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes “flexibility to adapt lease terms to suit [their] business and cultural needs” and to “enable [Tribes] to approve leases quickly and efficiently.” H. Rep. 112-427 at 6 (2012).

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. See *Michigan v. Bay Mills Indian Community*, 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (determining that “[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding”). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. See *id.* at 810–11 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. See 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal

leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the Part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or Part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Grand Traverse Band of Ottawa and Chippewa Indians, Michigan.

Bryan Newland,

Principal Deputy Assistant Secretary—Indian Affairs.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOS00000-L12200000.DF0000-21X]

Notice of Public Meetings, Western Oregon Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Western Oregon Resource Advisory Council (RAC) will meet as follows.

DATES: The Western Oregon RAC has scheduled its meetings for May 17, 19, 21, 2021; and June 24–25, 2021. Each meeting will begin at 9 a.m. and adjourn at approximately 4 p.m.

ADDRESSES: The meetings will be held virtually on the Zoom platform. Those wishing to participate in the Zoom meetings can contact the RAC coordinator, Kyle Sullivan, for the link and call-in number.

FOR FURTHER INFORMATION CONTACT: Kyle Sullivan, Public Affairs Specialist,

Medford District, 3040 Biddle Road, Medford, OR 97504; phone: (541) 618–2340; email: ksullivan@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Sullivan during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member Western Oregon RAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues across public lands in Western Oregon, including the Coos Bay, Medford, Northwest Oregon, and Roseburg Districts and part of the Lakeview District. Topics of discussion for these meetings include Secure Rural Schools Title II funding, recreation, recreation fee proposals, fire management, land use planning, invasive species management, timber management, travel management, wilderness, cultural resource management, and other issues as appropriate. The May meeting will focus on the review and recommendation of projects proposed for funding under the Title II of the Secure Rural Schools legislation. At the June meeting, the Northwest Oregon and Roseburg districts will be seeking RAC recommendations for new recreation fee collections and increases to existing recreation fees as required by the Federal Lands Recreation Enhancement Act (FLREA) 2004, Public Law 108–447 Section 804. The Roseburg District will present business plans to the RAC for recommendations on three recreation sites, and the Northwest Oregon District will present business plans for 21 sites.

The meetings are open to the public, and a public comment period will be held at the end of each meeting day. Depending on the number of persons wishing to comment and the time available, time allotted for individual oral comments may be limited. Written comments may be submitted in advance of the meeting to the BLM address (see **FOR FURTHER INFORMATION CONTACT**) or via email to ksullivan@blm.gov. Please include “RAC Comment” in your submission.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

Detailed meeting minutes for the RAC meetings will be maintained in the Medford District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting. Previous minutes, membership information, and upcoming agendas are available at: <https://www.blm.gov/get-involved/resource-advisory-council/near-you/oregon-washington/western-oregon-rac>.

(Authority: 43 CFR 1784.4–2)

Elizabeth R. Burghard,

Designated Federal Official.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO80200-L10200000.PH0000-212]

Notice of Joint and Individual Colorado Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Colorado's Northwest Resource Advisory Council (RAC), Southwest RAC, and Rocky Mountain RAC will meet as indicated below.

DATES: The Northwest, Southwest, and Rocky Mountain RACs have scheduled a joint meeting for May 12, 2021 from 10 a.m. to 3 p.m. (Mountain Time—MT). Individual RAC meetings are as follows: The Southwest RAC meeting is scheduled for May 25, 2021 from 10 a.m. to 3 p.m. (MT); the Northwest RAC meeting is scheduled for May 26, 2021 from 10 a.m. to 3 p.m. (MT); and the Rocky Mountain RAC meeting is scheduled for May 27, 2021 from 10 a.m. to 3 p.m. (MT). Due to public health restrictions, the joint and individual RAC meetings will be held virtually. To register for participation, please visit <https://www.blm.gov/get-involved/resource-advisory-council/near-you/colorado>.

ADDRESSES: The meetings will be held via the Zoom Webinar Platform. Written comments may be submitted in advance of the individual RAC meetings via email to the individuals and BLM